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No. 09-19

Supreme Court, U.S.
FILED
OCT 30 2009
OFFICE OF THE CLERK

In The

Supreme Court of the United States

REGINALD HILL,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

PETITION FOR REHEARING

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PETITION FOR REHEARING

Petitioner respectfully moves this Court for an order (1) vacating its order of October 5, 2009, which denied the petition for writ of certiorari filed by petitioner on June 26, 2009, and (2) granting the petition for writ of certiorari. The ground for rehearing is stated below.

REASON FOR GRANTING REHEARING

I. The First Amendment protects the rights of patients to have private conversations with their doctors to remain private. The question is whether the prohibition of the requirement notice and consent established a public policy that would affect the present case? The Petitioner's rights to his expectation of privacy in his personal health information as protected under the Due Process Clause of the Fifth Amendment will be violated, causing the further chipping away of the privacy protections of the Fourth Amendment that preserves the public trust as we know it or will this Court, by sustaining the denial of a writ of certiorari, sanction such conduct on the part of the federal employees involved.

The State of Florida provides a statutory scheme for the release of medical records which require notice and an opportunity to object by the patient in

protection of his or her privacy. The Government violated the law here where the Petitioner enjoyed a reasonable expectation of privacy in his medical information. See Katz v. United States, 442 U.S. 735 (1967) wherein the court held that the Fourth Amendment protects people, not places, therefore, the rights of an individual may not be violated by the government, regardless of whether or not there is a physical intrusion into any given area.

It overturned a 1928 case, Olmstead v. United States, 277 U.S. 438, 478, 48 S. Ct. 564, 572 (1928) and held that wiretaps were unconstitutional searches, because there was a reasonable expectation that the communication would be private. Smith v. Maryland, 442 U.S. 735 (1979). Petitioner reasonably expected his medical information would remain private but for the actions of the government.

Its actions went beyond a 2000-year-old patient-physician confidentiality embodied in the Oath of Hippocrates, a privilege recognized in various forms by the U.S. Supreme Court, Florida Supreme Court, federal and state statutes and regulations. Physicians are not tools to be exploited to divulge private medical information and to be forced to testify with the government who desperately sought protection from the physician, for their flagrant actions, against their own patients. The consequences will be dire for countless patients if the government is allowed access to their medical records to see what a patient is being treated for only to use that information to its benefit without reliance on the facts. The right of privacy

protected by the Constitution gained a foothold in Griswold v. Connecticut, 381 U.S. 479, 85 S. Ct. 1678, 14 L. Ed. 2d 510 (1965), in which the Supreme Court struck down a state statute forbidding married adults from using **Birth Control** because the statute violated the sanctity of the marital bedroom.

Acknowledging that the Constitution does not mention the word *privacy* anywhere in its text, the Court held that a general right to privacy may be inferred from the express language of the First, Third, Fourth, Fifth, and Fourteenth Amendments, as well as from the interests protected by them. Here you have a Human Resource section chief hiding behind the auspices of a U.S. District Court memorandum, who contacted petitioner's physician without notice and written consent. She obtained the petitioner's medical information without a compelling government interest and strong evidentiary showing, that would justify this intrusion, and even then disclosure should only be with the strict safeguards required by Whalen v. Roe, 429 U.S. 589 (1977).

CONCLUSION

For the foregoing reasons, and for the reasons stated in the petition for writ of certiorari, petitioner prays that this Court grant rehearing of the order of denial, vacate that order, grant the petition for writ of certiorari, and review the judgment below.

Respectfully submitted,

REGINALD HILL
(Pro se Petitioner)

Date: October 30, 2009

CERTIFICATE OF PETITIONER

As petitioner, I hereby certify that this petition for rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Rule 44.2.

Reginald Hill